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DETERMINATION OF LOCAL OPTION INCOME TAX CERTIFIED AND SUPPLEMENTAL DISTRIBUTIONS

Indiana law authorizes a County Adjusted Gross Income Tax (CAGIT), a County Option Income Tax (COIT), and a County Economic Development Income Tax (CEDIT). Collectively, these local option income taxes are commonly referred to as “LOITs”. This describes the statutory provisions and administrative procedures relevant to the distribution of LOITs.

LOITs are collected by the State and distributed back to the counties from which the collections were derived for allocation to governmental entities within the counties. The collections for any particular county that has adopted a LOIT are derived from residents of the county who also work in the county and individuals who work in the county but reside in a county that has not adopted a LOIT. For the purposes of LOITs, an individual’s county of residence is established on January 1 of each year.

Individuals making estimated income tax payments are required to identify their county of residence and separately identify the amount of state adjusted gross income tax and LOIT being remitted. Employers remitting income tax withholdings are required to separately state with each remittance the amount of state adjusted gross income tax and LOIT by the county for which it was withheld. For the majority of taxpayers, however, estimated payments and withholdings will not equal their final liabilities. When those taxpayers file their income tax returns they will either make an additional, final payment or claim a refund. A previously filed tax return may also be amended resulting in an additional, final payment or claim for refund. Final payments and refunds, from both original and amended tax returns, must also be taken into account when determining LOIT collections and distributions. For this reason, the State relies exclusively on information from tax returns that have been received and processed by the Department of Revenue when carrying out its administrative responsibilities related to LOITs.

The LOIT amounts to be distributed in a calendar year are determined and certified by the State Budget Agency by August 2 of the preceding year. By law, the State Budget Agency starts with the county tax liabilities reported on tax returns processed by the Department of Revenue during the state fiscal year ending in the calendar year (CY) in which the determinations are made. For example, when determining the CY 2012 certified distribution amounts the State Budget Agency began with county tax liabilities from tax returns processed between July 1, 2010 and June 30, 2011. The Budget Agency’s authority to certify amounts that differ from those derived from processed tax returns is statutorily limited to instances where: (1) a reduction is required to offset an overpayment made in a prior year; (2) an adjustment is needed to correct for a clerical or mathematical error made in a previous certification; (3) or a tax rate change is not yet fully reflected on the processed tax returns.

Since certified distributions are based on processed tax returns, those distributions will not match current collections. For example, amounts reported on tax returns processed in FY 2008 that formed the basis for the CY 2009 certified distributions represent collections from tax years 2006 and 2007. CY 2009 collections from employers, estimated payments and final returns represent current collections that form the basis for future distributions, once those amounts are finally processed. Therefore, in any given year, distributions may exceed collections and vice-versa. For these reasons, the Budget Agency annually reconciles collections and distributions based on the tax returns processed during the previous calendar year. The most recent reconciliation possible relies on tax returns processed in 2010 and is assumed to represent collections for 2009. These reconciliations produce (on paper) a positive or negative balance.

Prior to this year, if the Budget Agency determined based on its annual reconciliations that there existed undistributed LOIT collections it was required to distribute those collections in the form of supplemental distributions. HEA 1001-2011 amended that requirement such that beginning this year the State will retain any undistributed collections for a particular county up to 150% of that county's certified distribution for the following year as a reserve against future episodes when distributions exceed collections. In the event a county's balance is negative, certified distributions will be held to the lesser of certified distributions in the prior year or the amounts reported on processed tax returns thereby allowing growth in collections to restore the county's balance.

This memorandum has provided an overview of the statutory provisions governing the distribution of LOITs and the State Budget Agency's administrative procedures which conform to those provisions and the underlying legislative intent that distribution determinations be based on known information rather than estimation or speculation.

If you need additional information, please do not hesitate to contact Bob Lain at (317) 232-3471 or blain@sba.in.gov.